

**EXHIBIT C (Part 1)**

**In the Matter of:**

Equal Employment Opportunity Commission, et al.

vs.

Washington Group International, Inc., et al.

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D. Michael McDaniel  
Vol. 1, December 1, 2006

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*Doris O. Wong Associates, Inc.  
Professional Court Reporters  
Videoconference Center  
50 Franklin Street  
Boston, MA 02110  
(617) 426-2432*

Volume I  
Pages 1 to 182  
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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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:  
EQUAL EMPLOYMENT OPPORTUNITY :  
COMMISSION, :  
Plaintiff, :  
:  
JOHN BALDWIN, LEONARD BELL, :  
JOHANNES KAINDOH, WAYNE :  
HENDERSON, GODWIN ENAGBARE and :  
JOE L. WILLIS, :  
Intervenor-Plaintiffs, :  
:  
-against- : C.A. No.  
: 04-12097-GAO  
WASHINGTON GROUP INTERNATIONAL, :  
INC., RON BENNETT, MICHAEL :  
FOGARTY and DENNIS WOODRUFF, :  
Defendants. :  
:  
----- -x

DEPOSITION OF D. MICHAEL McDANIEL, a  
witness called on behalf of the Plaintiff, taken  
pursuant to the Federal Rules of Civil Procedure,  
before Carol H. Kusnitz, Registered Professional  
Reporter and Notary Public in and for the  
Commonwealth of Massachusetts, at the Offices of the  
Equal Employment Opportunity Commission, John F.  
Kennedy Federal Building, Room 475, Government  
Center, Boston, Massachusetts, on Friday, December  
1, 2006, commencing at 12:41 p.m.

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PRESENT:

Equal Employment Opportunity Commission  
(by R. Liliana Palacios-Baldwin, Esq.,  
and Markus Penzel, Esq.)  
John F. Kennedy Federal Building, Room 475,  
Government Center, Boston, MA 02203-0506,  
for the Plaintiff.

Corrigan, Bennett & Belfort, P.C.  
(by Todd J. Bennett, Esq.)  
24 Thorndike Street, Cambridge, MA 02141,  
for the Intervenor-Plaintiffs John Baldwin,  
Leonard Bell, Johannes Kaindoh and Wayne  
Henderson.

Dessin Law Office (by Jacques A. Dessin, Esq.)  
236 Huntington Avenue, Suite 302-304,  
Boston, MA 02115, for the Intervenor-  
Plaintiffs Godwin Enagbare and Joe L.  
Willis.

Jackson Lewis LLP (by Stephen T. Paterniti Esq.)  
75 Park Plaza, Boston, MA 02116,  
for the Defendant Washington Group  
International, Inc.

\* \* \* \*

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## 1 PROCEEDINGS

2 MS. PALACIOS-BALDWIN: Steve, we're going  
3 to go with our usual stip's?

4 MR. PATERNITI: Yes.

5 D. MICHAEL McDANIEL

6 a witness called for examination by counsel for the  
7 Plaintiff, having been satisfactorily identified by  
8 the production of his driver's license and being  
9 first duly sworn by the Notary Public, was examined  
10 and testified as follows:

## 11 DIRECT EXAMINATION

12 BY MS. PALACIOS-BALDWIN:

13 Q. Good morning, Mr. McDaniel. I know we've  
14 met before, so I'm not going to introduce myself,  
15 but I will introduce my colleague Markus Penzel who  
16 is here today from the EEOC.

17 I am certain that you're aware what this  
18 case is about and why you're here today. And I also  
19 suspect, given my review of your biography or your  
20 resume, that because you've done EEO work and looks  
21 like HR-related work for quite a long time that you  
22 may be familiar with the deposition process. Is  
23 that true?

24 A. That's true.

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D. MICHAEL MCDANIEL				
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\* \* \* \*

## EXHIBITS

NO.	DESCRIPTION	PAGE
1	Resume of D. Michael McDaniel, Bates Nos. DEF01774-1775	16
2	Position statement of Washington Group International, Inc., dated January 28, 2003, relating to complaint of John Baldwin, Bates Nos. DEF00009-15	113
3	Position statement of Washington Group International, Inc., dated January 28, 2003, relating to complaint of Wayne Henderson, Bates Nos. DEF00097-102	113
4	Position statement of Washington Group International, Inc., dated January 28, 2003, relating to complaint of Johannes Kaindoh, Bates Nos. DEF00151-158	113
5	Position statement of Washington Group International, Inc., dated January 28, 2003, relating to complaint of Leonard W. Bell, Bates Nos. 2275-2279	113

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1 Q. I think that probably the most important  
2 rule for me is just that if you don't understand one  
3 of my questions, I just want you to let me know, and  
4 I will do my best to rephrase it and make sure that  
5 you understand it. But if you answer my question,  
6 I'm going to assume that you have understood it. Is  
7 that fair to say?

8 A. Yes.

9 Q. So have you ever had your deposition taken  
10 before today?

11 A. Yes.

12 Q. How many times have you had your deposition  
13 taken?

14 A. Probably no more than two or three.

15 Q. And were those depositions in the course of  
16 your position at WGI or other jobs or other  
17 circumstances?

18 A. There was one personal, but most of them,  
19 they were -- all of these have been with WGI.

20 Q. Can you tell me, starting with the personal  
21 one, just give me a brief synopsis of what the  
22 deposition was about.

23 A. I had participated in the sale of mail  
24 order products, and a person left without delivering



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1 The case that we're involved in right now, which  
 2 deals with -- dealt with the project that was being  
 3 handled out of Everett, Massachusetts, at the Mystic  
 4 Power Plant, that project fell within the Power  
 5 Division; is that accurate?  
 6 A. Yes.  
 7 Q. Did that project fall under any other  
 8 division?  
 9 A. None known to me.  
 10 Q. With respect to that project, based on what  
 11 we just discussed was the hierarchy of HR, what I  
 12 want to know is who in HR, starting with Mr. Larry  
 13 Myers, would have responsibility over or would have  
 14 had responsibility over that project, if you know?  
 15 Do you know the answer to that?  
 16 A. I believe I do.  
 17 Q. Okay. Why don't you tell me.  
 18 A. Mr. Myers had overarching responsibility  
 19 for that. The next step would have been down to the  
 20 vice-president of HR operations, Cathy Rupert. The  
 21 next step down might be an equal step to myself for  
 22 EEO issues, to Inez Davis as HR director of the  
 23 Power Unit, and to Warren Anderson as the site  
 24 representative for EEO issues and labor relations.

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1 Q. Anybody else?  
 2 A. Certainly the responsibility would -- for  
 3 that project goes to the project management as well.  
 4 Q. The on-site project management?  
 5 A. Yes.  
 6 Q. Who does Mr. Myers report to you, if you  
 7 know?  
 8 A. To the Office of the Chairman.  
 9 Q. Any particular person within that office?  
 10 The president himself?  
 11 A. Probably, yes.  
 12 Q. Is the president of WGI still Stephen  
 13 Hanks?  
 14 A. Yes.  
 15 Q. And I believe it was Mr. Hanks at the time  
 16 this case originated in 2002?  
 17 A. I believe that's true.  
 18 Q. Do you ever, in your work duties, have to  
 19 interact with Mr. Hanks?  
 20 A. No.  
 21 Q. Have you ever?  
 22 A. Once.  
 23 Q. Tell me what it was that you had to  
 24 interact with him about.

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1 A. An OFCCP audit of the Boise corporate  
 2 office.  
 3 Q. Why did you need to speak to him about  
 4 that?  
 5 A. Because that's his home office, and they  
 6 were also looking at it from certain corporate  
 7 perspectives, and they were also going to be  
 8 scheduling a visit by the OFCCP district director  
 9 during the course of that audit, who had asked for  
 10 an audience with Mr. Hanks.  
 11 Q. I see.  
 12 A. And we sat down to discuss the elements of  
 13 the audit, where it was, et cetera.  
 14 Q. Although you may not, with this exception,  
 15 have to deal with Mr. Hanks directly in the course  
 16 of your work duties, are you ever presented with  
 17 questions from the Office of the Chairman or in a  
 18 position where you need to provide information to  
 19 the Office of the Chairman about EEO matters?  
 20 A. Not directly, no.  
 21 Q. When you say "not directly," what do you  
 22 mean?  
 23 A. If I provide information to my supervisor,  
 24 who in turn provides it to her supervisor, who is

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1 Larry Myers, that information may get to the Office  
 2 of the Chairman.  
 3 Q. And your supervisor is Ms. Rupert; is that  
 4 true?  
 5 A. No, Ms. Large, Jennifer Large. I'm sorry,  
 6 at the time -- that's true now. So which time frame  
 7 are we referring to?  
 8 Q. So Jennifer Large is now your supervisor,  
 9 and at the time that Mystic was happening here in  
 10 Boston, Cathy Rupert was your supervisor?  
 11 A. No. Mr. Myers was my supervisor.  
 12 Q. Okay. There was no Cathy Rupert at the  
 13 time?  
 14 A. There was, but I reported directly to Mr.  
 15 Myers.  
 16 Q. Got it. Just again to get a little bit of  
 17 a context of how the HR function works at WGI, I  
 18 think you're aware that the EEOC has another case  
 19 pending against WGI out of a facility in New Jersey.  
 20 Are you aware of that?  
 21 A. Yes.  
 22 Q. What division did that case originate in,  
 23 if you know?  
 24 A. Infrastructure.



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1 conversation with Warren about Willis forward, were  
2 there any other conversations either with Warren or  
3 with anybody else where you were informed of  
4 complaints made by someone other than Willis during  
5 the time that that project was being built, which I  
6 believe was about, you know, 2000 to 2002, end of  
7 2002 -- or 2003, I'm sorry.

8 A. '03 or '04, yes.

9 Q. Can you recall chronologically the next  
10 communication that you got regarding somebody else's  
11 complaint at Sithe Mystic?

12 A. I believe Mr. Enagbare was the next  
13 sequence of claim.

14 Q. And how did you learn about Mr. Enagbare?

15 A. I'm trying to recall if I received that  
16 information first by a fax from the mailing of the  
17 charge, which usually went to the Boise office and  
18 then was forwarded to me, and then I would  
19 communicate that communication to Warren, or whether  
20 Warren called me and said he had a copy. I don't  
21 recall that.

22 Q. And, again, same question. Omitting Mr.  
23 Willis and Mr. Enagbare, I'll go back to them later,  
24 but anybody else that you recall hearing complaints

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1 about from the Sithe Mystic facility, other than Mr.  
2 Willis and Mr. Enagbare?

3 A. Yes. Perhaps to generalize, I eventually  
4 found out about all six of the Plaintiffs associated  
5 with this case and some others.

6 Q. Who are the some others, if you can recall?

7 A. If I can recall them. Is it that you're  
8 asking their names or the situation or --

9 Q. Let's start with their names. I suspect  
10 you may at some point remember situations and not  
11 names, but let's start with what you remember as far  
12 as names.

13 A. Jamie Elder. Leanne Scopa.

14 Q. Leanne?

15 A. Scopa, S-c-o-p-a. Sandra Williams. Those  
16 are the only other names that I can think of right  
17 now.

18 Q. I'm going to ask you if you know about some  
19 other names to see if it refreshes your  
20 recollection, on other individuals that you may have  
21 heard about with respect to complaints on EEO.

22 Did you ever hear about an individual,  
23 Melvin Dixon, who had a complaint of discrimination  
24 at that site?

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1 A. I don't recall it. I may have, but I don't  
2 recall it.

3 Q. Do you remember a complaint made by an  
4 individual named Ozzie Weeks, who was a  
5 subcontractor employee who was working on that  
6 facility, who made a complaint about another  
7 employee named Dick O'Hare? Does that sound  
8 familiar?

9 A. Yes.

10 Q. So you remember hearing about Mr. Weeks --

11 A. Those are a memory -- it sparks a memory of  
12 something, yes.

13 Q. Do you have any memory of how you learned  
14 about those facts?

15 A. Yes.

16 Q. Can you tell me what your memory is.

17 A. That in the preparation of position  
18 statements for one or more of these Plaintiffs, it  
19 was, I believe, enumerated in one of those position  
20 statements that individuals had been terminated for  
21 use of discriminatory language, et cetera.

22 I believe Mr. O'Hare, was he not one of  
23 those who was terminated, one of our employees?  
24 That seems to be the memory that's stirring for me

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1 on that.

2 Q. Is it fair to say that you learned about it  
3 in the context of writing the position statement, or  
4 is it more fair to say that you learned about it at  
5 the time that it occurred, that Mr. O'Hare was  
6 terminated for using discriminatory language?

7 A. I would say more in line with the time  
8 associated with the writing of the position  
9 statement.

10 Q. Do you think you got that information from  
11 Warren?

12 A. I do.

13 Q. Do you have any memory of an individual  
14 named John Day who was a civil superintendent who  
15 was terminated for using discriminatory language?

16 A. Yes. The same scenario.

17 Q. You've named about ten or so instances of  
18 complaints, and I'll get into the details of them in  
19 a second. I understand that the Sithe Mystic  
20 project was large, on the larger end of the power  
21 projects. But was it unique for you to receive this  
22 many complaints in a period of two to three years in  
23 this type of facility?

24 And what I'm really trying to find out is,